

PART II CODE OF ORDINANCES

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. How code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, City of Muskegon, Michigan" and may be so cited. Such ordinances may also be cited as the "Muskegon City Code."

(Code 1975, § 1-1)

Charter reference(s)--Publication of ordinances in pamphlet form, ch. VII, §§ 16, 17.

State law reference(s)--Authority to codify ordinances, MCL 117.5b.

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Charter. The term "Charter" means the Charter of the City of Muskegon, Michigan.

City. The term "city" means the City of Muskegon, Michigan.

City commission and commission. The terms "city commission" and "commission" mean the city commission of the city.

Civil infraction. The term "civil infraction" means an act or omission prohibited by law which is not a crime and for which civil sanctions may be ordered.

Code. The term "Code" means the Code of Ordinances, City of Muskegon, Michigan, as designated in section 1-1.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday, or legal holiday, the period or day is extended to included the next day that is not a Saturday, Sunday, or legal holiday.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:

- (1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.
- (2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) The term "either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Muskegon County, Michigan.

Crime. The term "crime" means an act or omission forbidden by law that is not designated as a civil infraction and that is punishable upon conviction by any one or more of the following:

- (1) Imprisonment.
- (2) Fine not designated a civil fine.
- (3) Other penal discipline.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Gender. Words of one gender include the other genders.

Health department and department of public health. The terms "health department" and "department of public health" mean the county health department.

Health officer. The term "health officer" means the director of the county health department.

Highway. The term "highway" includes any street, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Includes and including. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

Joint authority. A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members as fixed by statute or ordinance.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

Month. The term "month" means a calendar month.

Must. The word "must" is to be construed as being mandatory.

Number. The singular includes the plural and the plural includes the singular.

Oath, affirmation, sworn, affirmed. The term "oath" includes an affirmation in all cases where an affirmation may be substituted for an oath. In similar cases, the "sworn" includes the term "affirmed."

Officers, departments, etc. References to officers, departments, board,

commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property. With respect to special assessments, however, the owner shall be considered to be the person appearing on the assessment roll for the purpose of giving notice and billing.

Person. The term "person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, limited liability company, governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

Personal property. The term "personal property" means any property other than real property.

Preceding and following. The terms "preceding" and "following" mean next before and next after, respectively.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" means real and personal property.

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 279 of 1909 is a reference to Act No. 279 of the Public Acts of Michigan of 1909.) Any reference to a public act, whether by act number or by short title is a reference to the act as amended.

Real property, real estate, land, lands. The term "real property" includes land, tenements and hereditaments.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature and subscription. The terms "signature" and "subscription" includes a mark when the person cannot write.

State. The term "state" means the State of Michigan.

Street. The term "street" means any street, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Swear. The term "swear" includes affirm.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Week. The term "week" means seven consecutive days.

Written. The term "written" includes any representation of words, letters, symbols or figures.

Year. The term "year" means 12 consecutive months.

(Code 1975, § 1-3)

State law reference(s)--Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

Sec. 1-3. Catchlines of sections; history notes; references.

- (a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.
- (b) The history or source notes appearing in parenthesis after sections in this Code have no legal effect and only indicate legislative history. Charter references, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.
- (c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 1975, § 1-2)

State law reference(s)--Catchlines in state statutes, MCL 8.4b.

Sec. 1-4. Effect of repeal of ordinances.

- (a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving provision in it.
- (b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any rights, privileges, suit, prosecution or proceeding pending at the time of the amendment or repeal.

State law reference(s)--Effect of repeal of state statutes, MCL 8.4.

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

- (a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.
- (b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, City of Muskegon, Michigan, is hereby amended to read as

follows:"

- (c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, City of Muskegon, Michigan, is hereby created to read as follows:"
- (d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

(Code 1975, § 1-7)

Charter reference(s)--Amendment of ordinances by city commission, ch. VII, §§ 2, 6.

Sec. 1-6. Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:
 - (1) Arrange the material into appropriate organizational units.
 - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
 - (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

(Code 1975, § 1-8)

Sec. 1-7. General penalty; continuing violations.

- (a) In this section the term "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or a violation or by ordinance or by rule or regulation authorized by ordinance.
- (b) Any provision of this Code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.
- (c) In this section the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (d) Except as specifically provided otherwise by state law or city ordinance, all violations of this Code are misdemeanors. Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed \$500.00 and costs of prosecution, or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment.
- (e) The commission of any violation of this Code that is declared to be a civil infraction shall subject the violator to a civil penalty as provided by state law for municipal civil infractions or trailway municipal infractions, whichever is applicable, and as determined by city ordinance.
 - (1) The sanction for a municipal civil infraction or trailway civil infraction shall be a civil fine in the amount determined by ordinance, plus any costs, damages, expenses and other sanctions, as authorized by state law.
 - (2) Unless otherwise specifically provided for a particular civil infraction, the civil fine for a violation shall be not less than \$50.00, plus costs and other sanctions, for each infraction.
 - (3) Increased civil fines may be imposed for repeat offenses. In this subsection the term "repeat offense" means a second or any subsequent municipal civil infraction violation of the same requirement or provision committed by the same person within any 24-month period and for which the person has admitted responsibility or is determined responsible. Unless specifically provided for a particular civil infraction violation, the increased fine for a repeat offense shall be as follows:

- a. For the first repeat offense, a fine of not less than \$250.00, plus costs.
 - b. For a second repeat offense or any subsequent repeat offense, a fine of not less than \$500.00, plus costs.
- (4) The civil infraction fine schedule in section 2-204 is hereby adopted by reference.
- (f) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense unless provided otherwise.
- (g) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (h) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

(Code 1975, § 1-6)

Charter reference(s)--Penalty for ordinance violations, ch. VII, § 19.

State law reference(s)--Penalty for ordinance violations, MCL 117.4i(k), 117.41.

Sec. 1-8. Severability.

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Code that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Code are severable.

(Code 1975, § 1-9)

State law reference(s)--Severability of state statutes, MCL 8.5.

Sec. 1-9. Provisions deemed continuation of existing ordinances.

The provisions of this Code insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter shall be construed as restatements and continuations thereof and not as new enactments.

State law reference(s)--Similar provisions as to state statutes, MCL 8.3u.

Sec. 1-10. Code does not affect prior offenses or rights.

- (a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- (b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective

date of this Code.

(Code 1975, § 1-5)

Sec. 1-11. Certain ordinances not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of any ordinance:
- (1) Annexing property into the city or describing the corporate limits.
 - (2) Deannexing property or excluding property from the city.
 - (3) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
 - (4) Authorizing or approving any contract, deed, or agreement.
 - (5) Granting any right or franchise.
 - (6) Making or approving any appropriation or budget.
 - (7) Providing for the duties of city officers or employees not codified in this Code.
 - (8) Providing for salaries or other employee benefits.
 - (9) Adopting or amending a comprehensive plan.
 - (10) Levying or imposing any special assessment.
 - (11) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
 - (12) Establishing the grade of any street or sidewalk.
 - (13) Dedicating, accepting or vacating any plat or subdivision.
 - (14) Not codified in this Code that levies, imposes or otherwise relates to taxes, exemptions from taxes and fees in lieu of taxes.
 - (15) Pertaining to zoning, including, but not limited to, the basic zoning ordinance and ordinances rezoning property.
 - (16) That is temporary, although general in effect.
 - (17) That is special, although permanent in effect.
 - (18) The purpose of which has been accomplished.
- (b) The ordinances or portions of ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.

(Code 1975, § 1-4)

A person shall not represent, for the purpose of inducing a real estate transaction from which the person may benefit financially, that a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, age, sex, marital status or handicap of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

(Code 1975, § 8^{1/2}-16)

State law reference(s)--Similar provisions, MCL 37.2506.